

EXHIBIT A

Plaintiff Tesla, Inc.'s Proposed Protective Order

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TESLA, INC, a Delaware corporation,

Plaintiff,

v.

MARTIN TRIPP, an individual,

Defendant.

Case No.: 3:18-cv-00296-LRH-CBC

**[PROPOSED] PROTECTIVE ORDER
 REGARDING THE DISCLOSURE AND
 USE OF DISCOVERY MATERIAL**

AND RELATED COUNTERCLAIM

1 Plaintiff Tesla, Inc. (“Plaintiff”) and Defendant Martin Tripp (“Defendant”) anticipate that
2 documents, testimony, or information containing or reflecting confidential, proprietary, trade
3 secret, and/or commercially sensitive information are likely to be disclosed or produced during the
4 course of discovery, initial disclosures, and supplemental disclosures in this case and request that
5 the Court enter this Order setting forth the conditions for treating, obtaining, and using such
6 information.

7 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the Court finds good cause
8 for the following [Proposed] Protective Order Regarding the Disclosure and Use of Discovery
9 Material (“Order” or “Protective Order”).

10 **1. PURPOSES AND LIMITATIONS**

11 (a) Protected Material designated under the terms of this Protective Order shall
12 be used by a Receiving Party solely for this case and shall not be used directly or indirectly for any
13 other purpose whatsoever.

14 (b) The Parties acknowledge that this Order does not confer blanket protections
15 on all disclosures during discovery. Designations under this Order shall be made with care and
16 shall not be made absent a good faith belief that the designated material satisfies the criteria set
17 forth below. If it comes to a Producing Party’s attention that designated material does not qualify
18 for protection at all, or does not qualify for the level of protection initially asserted, the Producing
19 Party must promptly notify all other Parties that it is withdrawing or changing the designation.

20 **2. DEFINITIONS**

21 (a) “Discovery Material” means all items or information, including from any
22 non-party, regardless of the medium or manner generated, stored, or maintained (including, among
23 other things, testimony, transcripts, or tangible things) that are produced, disclosed, or generated in
24 connection with discovery or Rule 26(a) disclosures in this case.

25 (b) “Outside Counsel” means (i) outside counsel who appear on the pleadings as
26 counsel for a Party and (ii) partners, associates, and staff of such counsel to whom it is reasonably
27 necessary to disclose the information for this litigation.

1 (c) "Party" means any party to this case, including all of its officers, directors,
2 employees, consultants, retained experts, and outside counsel and their support staffs.

3 (d) "Producing Party" means any Party or non-party that discloses or produces
4 any Discovery Material in this case. In addition, any Party shall be entitled to designate as
5 "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY" any of its
6 confidential, proprietary, and/or commercially sensitive information in the other Party's possession,
7 custody, or control and shall be considered a "Producing Party" in such instances.

8 (e) "Protected Material" means any Discovery Material that is designated as
9 "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY," as provided for in
10 this Order. Protected Material shall not include: (i) advertising materials that have been actually
11 published or publicly disseminated; and (ii) materials that show on their face they have been
12 disseminated to the public.

13 (f) "Receiving Party" means any Party who receives Discovery Material from a
14 Producing Party.

15 **3. COMPUTATION OF TIME**

16 The computation of any period of time prescribed or allowed by this Order shall be
17 governed by the provisions for computing time set forth in Federal Rule of Civil Procedure 6.

18 **4. SCOPE**

19 (a) The protections conferred by this Order cover not only Discovery Material
20 governed by this Order as addressed herein, but also any information copied or extracted therefrom,
21 as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations,
22 or presentations by Parties or their counsel in court or in other settings that might reveal Protected
23 Material.

24 (b) Nothing in this Protective Order shall prevent or restrict a Producing Party's
25 own disclosure or use of its own Protected Material for any purpose, and nothing in this Order shall
26 preclude any Producing Party from showing its Protected Material to an individual who prepared
27 the Protected Material. Further, nothing in this Protective Order shall prevent or restrict Plaintiff's
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own disclosure or use for any purpose of material in Defendant's possession, custody, or control that contains, reflects, or was derived from Plaintiff's Protected Material.

(c) Nothing in this Order shall be construed to prejudice any Party's right to use any Protected Material in court or in any court filing with the consent of the Producing Party or by order of the Court.

(d) This Order is without prejudice to the right of any Party to seek further or additional protection of any Discovery Material or to modify this Order in any way, including, without limitation, an order that certain matter not be produced at all.

5. DURATION

Even after the termination of this case, the confidentiality obligations imposed by this Order shall remain in effect until a Producing Party agrees otherwise in writing or a court order otherwise directs.

6. ACCESS TO AND USE OF PROTECTED MATERIAL

(a) **Basic Principles.** All Protected Material shall be used solely for this case or any related appellate proceeding, and not for any other purpose whatsoever, including without limitation any other litigation, patent prosecution or acquisition, patent reexamination or reissue proceedings, or any business or competitive purpose or function. Protected Material shall not be distributed, disclosed or made available to anyone except as expressly provided in this Order.

(b) **Secure Storage, No Export.** Protected Material must be stored and maintained by a Receiving Party at a location in the United States and in a secure manner that ensures that access is limited to the persons authorized under this Order. To ensure compliance with applicable United States Export Administration Regulations, Protected Material may not be exported outside the United States or released to any foreign national (even if within the United States).

(c) **Legal Advice Based on Protected Material.** Nothing in this Protective Order shall be construed to prevent counsel from advising their clients with respect to this case based in whole or in part upon Protected Material, provided counsel does not disclose the Protected Material itself except as provided in this Order.

(d) Limitations. Nothing in this Order shall restrict in any way a Producing Party's use or disclosure of its own Protected Material. Nothing in this Order shall restrict in any way the use or disclosure of Discovery Material by a Receiving Party: (i) that is or has become publicly known through no fault of the Receiving Party; (ii) that is lawfully acquired by or known to the Receiving Party independent of the Producing Party; (iii) previously produced, disclosed and/or provided by the Producing Party to the Receiving Party or a non-party without an obligation of confidentiality and not by inadvertence or mistake; (iv) with the consent of the Producing Party; or (v) pursuant to order of the Court.

7. DESIGNATING PROTECTED MATERIAL

(a) Available Designations. Any Producing Party may designate Discovery Material with any of the following designations, provided that it meets the requirements for such designations as provided for herein: "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY."

(b) Written Discovery and Documents and Tangible Things. Written discovery, documents (which include "electronically stored information," as that phrase is used in Federal Rule of Procedure 34), and tangible things that meet the requirements for the confidentiality designations listed in Paragraph 7(a) may be so designated by placing the appropriate designation on every page of the written material prior to production. For digital files being produced, the Producing Party may mark each viewable page or image with the appropriate designation, and mark the medium, container, and/or communication in which the digital files were contained. In the event that original documents are produced for inspection, the original documents shall be presumed "CONFIDENTIAL – ATTORNEYS' EYES ONLY" during the inspection and re-designated, as appropriate during the copying process.

(c) Native Files. Where electronic files and documents are produced in native electronic format, such electronic files and documents shall be designated for protection under this Order by appending to the file names or designators information indicating whether the file contains "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY" material, or shall use any other reasonable method for so designating Protected Material produced in electronic

1 format. When electronic files or documents are printed for use at deposition, in a court proceeding,
2 or for provision in printed form to an expert or consultant pre-approved pursuant to Paragraph 10,
3 the party printing the electronic files or documents shall affix a legend to the printed document
4 corresponding to the designation of the Designating Party and including the production number and
5 designation associated with the native file. No one shall seek to use in this litigation a .tiff, .pdf or
6 other image format version of a document produced in native file format without first (1) providing
7 a copy of the image format version to the Producing Party so that the Producing Party can review
8 the image to ensure that no information has been altered, and (2) obtaining the consent of the
9 Producing Party, which consent shall not be unreasonably withheld.

10 (d) Depositions and Testimony. Parties or testifying persons or entities may
11 designate depositions and other testimony with the appropriate designation by indicating on the
12 record at the time the testimony is given or by sending written notice of how portions of the
13 transcript of the testimony is designated within thirty (30) days of receipt of the final transcript of
14 the testimony. If no indication on the record is made, all information disclosed during a deposition
15 shall be deemed “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” until the time within which it
16 may be appropriately designated as provided for herein has passed. Any Protected Material that is
17 used in the taking of a deposition shall remain subject to the provisions of this Protective Order,
18 along with the transcript pages of the deposition testimony dealing with such Protected Material.
19 In such cases the court reporter shall be informed of this Protective Order and shall be required to
20 operate in a manner consistent with this Protective Order. In the event the deposition is videotaped,
21 the original and all copies of the videotape shall be marked by the video technician to indicate that
22 the contents of the videotape are subject to this Protective Order, substantially along the lines of
23 “This videotape contains confidential testimony used in this case and is not to be viewed or the
24 contents thereof to be displayed or revealed except pursuant to the terms of the operative Protective
25 Order in this matter or pursuant to written stipulation of the parties.” Counsel for any Producing
26 Party shall have the right to exclude from oral depositions, other than the deponent, deponent’s
27 counsel, the reporter and videographer (if any), any person who is not authorized by this Protective
28 Order to receive or access Protected Material based on the designation of such Protected Material.

1 Such right of exclusion shall be applicable only during periods of examination or testimony
2 regarding such Protected Material.

3 **8. DISCOVERY MATERIAL DESIGNATED AS “CONFIDENTIAL”**

4 (a) A Producing Party may designate Discovery Material as
5 “CONFIDENTIAL” if it contains or reflects confidential, proprietary, and/or commercially
6 sensitive information of any party.

7 (b) Plaintiff hereby designates as “CONFIDENTIAL” all information in
8 Defendant’s possession, custody, or control that contains, reflects, or was derived from any of
9 Plaintiff’s confidential, proprietary, and/or commercially sensitive information. Nothing in this
10 paragraph shall prevent or restrict Plaintiff from subsequently designating such material as
11 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” provided that it meets the requirements for
12 such designation as provided for herein. Defendant agrees that all information designated as
13 “CONFIDENTIAL” pursuant to this paragraph constitutes Protected Material and that Defendant
14 shall henceforth treat all such material as “CONFIDENTIAL” in accordance with Paragraph 8(c).

15 (c) Unless otherwise ordered by the Court, Discovery Material designated as
16 “CONFIDENTIAL” may be disclosed only to the following:

17 (i) The Receiving Party and the Receiving Party’s in-house and Outside
18 Counsel, such counsel’s immediate paralegals and staff, and any copying or clerical litigation
19 support services working at the direction of such counsel, paralegals, and staff;

20 (ii) Current employees of the Receiving Party with whom that Party's
21 in-house or Outside Counsel need to consult for purposes of this litigation;

22 (iii) Any outside expert or consultant retained by the Receiving Party to
23 assist in this action, provided that disclosure is only to the extent necessary to perform such work;
24 and provided that: (a) such expert or consultant has agreed to be bound by the provisions of the
25 Protective Order by signing a copy of Exhibit A; (b) such expert or consultant is not a current
26 officer, director, or employee of a Party or of a competitor of a Party, nor anticipated at the time of
27 retention to become an officer, director or employee of a Party or of a competitor of a Party;

28 (c) such expert or consultant accesses the materials in the United States only, and does not transport

1 them to or access them from any foreign jurisdiction; and (d) no unresolved objections to such
 2 disclosure exist after proper notice has been given to all Parties as set forth in Paragraph 10 below;

3 (iv) Court reporters, stenographers and videographers retained to record
 4 testimony taken in this action;

5 (v) The Court, jury, and court personnel;

6 (vi) Graphics, translation, design, and/or trial consulting personnel,
 7 having first agreed to be bound by the provisions of the Protective Order by signing a copy of
 8 Exhibit A;

9 (vii) Mock jurors who have signed an undertaking or agreement agreeing
 10 not to publicly disclose Protected Material and to keep any information concerning Protected
 11 Material confidential;

12 (viii) Any mediator who is assigned to hear this matter, and his or her staff,
 13 subject to their agreement to maintain confidentiality to the same degree as required by this
 14 Protective Order; and

15 (ix) Any other person with the prior written consent of the Producing
 16 Party.

17 **9. DISCOVERY MATERIAL DESIGNATED AS “CONFIDENTIAL –**
 18 **ATTORNEYS’ EYES ONLY”**

19 (a) A Producing Party may designate Discovery Material as
 20 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” if it contains or reflects information that is
 21 extremely confidential and/or sensitive in nature and the Producing Party reasonably believes that
 22 the disclosure of such Discovery Material is likely to cause economic harm or competitive
 23 disadvantage to the Producing Party.

24 (b) Unless otherwise ordered by the Court, Discovery Material designated as
 25 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” may be disclosed only to:

26 (i) The Receiving Party’s Outside Counsel, provided that such Outside
 27 Counsel is not involved in competitive decision-making, as defined by *U.S. Steel v. United States*,
 28 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a Party or a competitor of a Party, and such

1 Outside Counsel's immediate paralegals and staff, and any copying or clerical litigation support
2 services working at the direction of such counsel, paralegals, and staff;

3 (ii) In-house counsel of the Receiving Party, as well as their immediate
4 paralegals and staff to whom disclosure is reasonably necessary for this case;

5 (iii) Any outside expert or consultant retained by the Receiving Party to
6 assist in this action, provided that disclosure is only to the extent necessary to perform such work;
7 and provided that: (a) such expert or consultant has agreed to be bound by the provisions of the
8 Protective Order by signing a copy of Exhibit A; (b) such expert or consultant is not a current
9 officer, director, or employee of a Party or of a competitor of a Party, nor anticipated at the time of
10 retention to become an officer, director, or employee of a Party or of a competitor of a Party;
11 (c) such expert or consultant is not involved in competitive decision-making, as defined by *U.S.*
12 *Steel v. United States*, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a Party or a
13 competitor of a Party; (d) such expert or consultant accesses the materials in the United States only,
14 and does not transport them to or access them from any foreign jurisdiction; and (e) no unresolved
15 objections to such disclosure exist after proper notice has been given to all Parties as set forth in
16 Paragraph 10 below;

17 (iv) Court reporters, stenographers and videographers retained to record
18 testimony taken in this action;

19 (v) The Court, jury, and court personnel;

20 (vi) Graphics, translation, design, and/or trial consulting personnel,
21 having first agreed to be bound by the provisions of the Protective Order by signing a copy of
22 Exhibit A;

23 (vii) Any mediator who is assigned to hear this matter, and his or her staff,
24 subject to their agreement to maintain confidentiality to the same degree as required by this
25 Protective Order; and

26 (viii) Any other person with the prior written consent of the Producing
27 Party
28

1 **10. NOTICE OF DISCLOSURE**

2 (a) With the sole exception of consulting experts who are not expected to be
3 called as witnesses at trial, prior to disclosing any Protected Material to any person described in
4 Paragraphs 8(c)(iii) or 9(b)(iii) (referenced below as “Person”), the Party seeking to disclose such
5 information shall provide the Producing Party with written notice that includes:

6 (i) the name of the Person;

7 (ii) an up-to-date curriculum vitae of the Person, containing a complete and accurate
8 employment history; and

9 (iii) the present employer and title of the Person

10 Further, the Party seeking to disclose Protected Material shall provide such other information
11 regarding the Person’s professional activities reasonably requested by the Producing Party for it to
12 evaluate whether good cause exists to object to the disclosure of Protected Material to the outside
13 expert or consultant.

14 (b) Within fourteen (14) days of receipt of the disclosure of the Person, the
15 Producing Party or Parties may object in writing to the Person for good cause. In the absence of an
16 objection at the end of the fourteen (14) day period, the Person shall be deemed approved under
17 this Protective Order. There shall be no disclosure of Protected Material to the Person prior to
18 expiration of this fourteen (14) day period. If the Producing Party objects to disclosure to the
19 Person within such fourteen (14) day period, the Parties shall meet and confer via telephone or in
20 person within seven (7) days following the objection and attempt in good faith to resolve the
21 dispute on an informal basis. If the dispute is not resolved, the Party objecting to the disclosure
22 will have seven (7) days from the date of the meet and confer to seek relief from the Court. If relief
23 is not sought from the Court within that time, the objection shall be deemed withdrawn. If relief is
24 sought, designated materials shall not be disclosed to the Person in question until the Court resolves
25 the objection.

26 (c) For purposes of this section, “good cause” shall include an objectively
27 reasonable concern that the Person will, advertently or inadvertently, use or disclose Discovery
28 Material in a way or ways that are inconsistent with the provisions contained in this Order.

1 (d) Prior to receiving any Protected Material under this Order, the Person must
2 execute a copy of the "Agreement to Be Bound by Protective Order" (Exhibit A hereto) and serve it
3 on all Parties.

4 (e) An initial failure to object to a Person under this Paragraph 10 shall not
5 preclude the nonobjecting Party from later objecting to continued access by that Person for good
6 cause. If an objection is made, the Parties shall meet and confer via telephone or in person within
7 seven (7) days following the objection and attempt in good faith to resolve the dispute informally.
8 If the dispute is not resolved, the Party objecting to the disclosure will have seven (7) days from the
9 date of the meet and confer to seek relief from the Court. The designated Person may continue to
10 have access to information that was provided to such Person prior to the date of the objection. If a
11 later objection is made, no further Protected Material shall be disclosed to the Person until the
12 Court resolves the matter or the Producing Party withdraws its objection. Notwithstanding the
13 foregoing, if the Producing Party fails to move for a protective order within seven (7) business days
14 after the meet and confer, further Protected Material may thereafter be provided to the Person.

15 **11. CHALLENGING DESIGNATIONS OF PROTECTED MATERIAL**

16 (a) A Party shall not be obligated to challenge the propriety of any designation
17 of Discovery Material under this Order at the time the designation is made, and a failure to do so
18 shall not preclude a subsequent challenge thereto.

19 (b) Any challenge to a designation of Discovery Material under this Order shall
20 be written, shall be served on outside counsel for the Producing Party, shall particularly identify the
21 documents or information that the Receiving Party contends should be differently designated, and
22 shall state the grounds for the objection. Thereafter, further protection of such material shall be
23 resolved in accordance with the following procedures:

24 (i) The objecting Party shall have the burden of conferring either in
25 person, in writing, or by telephone with the Producing Party claiming protection (as well as any
26 other interested party) in a good faith effort to resolve the dispute. The Producing Party shall have
27 the burden of justifying the disputed designation;
28

(ii) Failing agreement, the Receiving Party may bring a motion to the Court for a ruling that the Discovery Material in question is not entitled to the status and protection of the Producing Party's designation. The Parties' entry into this Order shall not preclude or prejudice either Party from arguing for or against any designation, establish any presumption that a particular designation is valid, or alter the burden of proof that would otherwise apply in a dispute over discovery or disclosure of information;

(iii) Notwithstanding any challenge to a designation, the Discovery Material in question shall continue to be treated as designated under this Order until one of the following occurs: (a) the Party who designated the Discovery Material in question withdraws such designation in writing; or (b) the Court rules that the Discovery Material in question is not entitled to the designation.

12. SUBPOENAS OR COURT ORDERS

If at any time Protected Material is subpoenaed by any court, arbitral, administrative, or legislative body or by other process or order, the Party to whom the subpoena or other request is directed shall immediately give prompt written notice thereof to every Party who has produced such Discovery Material and to its counsel, shall furnish counsel for each such Party with a copy of said subpoena or other process or order, and shall provide each such Party with an opportunity to move for a protective order regarding the production of Protected Material implicated by the subpoena or other process or order.

13. FILING PROTECTED MATERIAL

(a) If a party files any Protected Material, it shall follow the following modified procedure of LR IA 10-5:

(i) Unless otherwise permitted by statute, rule, prior court order, or prior permission from the party who originally designated the material as Protected Material, all papers designated as Protected Material and filed with the Court must be filed under seal and accompanied by a "Notice of Filing Protected Material" publicly filed with the Court and served on the non-filing party.

(ii) The party who originally designated the material as Protected Material shall then have five (5) court days to file with the Court (A) a notice that it does not seek to have the Protected Material sealed; or (B) a motion requesting that the Court seal the Protected Material. Such motion, and any response or reply memorandum with respect to such motion, shall not exceed the page limitation established by this Court's Local Rules.

(iii) All Protected Material filed with the Court will remain sealed until (A) the Court either denies or grants the motion requesting to seal Protected Material described in subparagraph (ii); or (B) the non-filing party gives notice under subparagraph (ii) that it does not seek to have the Protected Material sealed.

(iv) This provision shall not apply to Protected Material for which the Court has already denied a motion requesting to seal Protected Material described in subparagraph (ii) or for which the Producing Party has already given notice under subparagraph (ii) that it does not seek to have the Protected Material sealed.

(v) All other provisions of LR IA 10-5 shall remain in effect except to the extent they contravene this Protective Order, in which case this Protective Order shall govern.

14. INADVERTENT DISCLOSURE OF PRIVILEGED MATERIAL

(a) The inadvertent production by a Party of Discovery Material subject to the attorney-client privilege, work-product protection, or any other applicable privilege or protection, despite the Producing Party's reasonable efforts to prescreen such Discovery Material prior to production, will not waive the applicable privilege and/or protection if a request for return of such inadvertently produced Discovery Material is made promptly after the Producing Party learns of its inadvertent production.

(b) Upon a request from any Producing Party who has inadvertently produced Discovery Material that it believes is privileged and/or protected, each Receiving Party shall immediately return or destroy such Protected Material or Discovery Material and any copies thereof and promptly notify the Producing Party of the return/destruction within two (2) business days of receipt of notice, must not use or disclose information contained therein, and must take

1 reasonable steps to retrieve the specified such Protected Material or Discovery Material if the
2 requesting party disclosed it before being notified.

3 (c) Nothing herein shall prevent the Receiving Party from preparing a record for
4 its own use containing the date, author, addresses, and topic of the inadvertently produced
5 Discovery Material and such other information as is reasonably necessary to identify the Discovery
6 Material and describe its nature to the Court in any motion to compel production of the Discovery
7 Material.

8 **15. INADVERTENT FAILURE TO DESIGNATE PROPERLY**

9 (a) The inadvertent failure by a Producing Party to designate Discovery Material
10 as Protected Material with one of the designations provided for under this Order shall not waive
11 any such designation provided that the Producing Party notifies all Receiving Parties that such
12 Discovery Material is protected under one of the categories of this Order within fourteen (14) days
13 of the Producing Party learning of the inadvertent failure to designate. The Producing Party shall
14 reproduce the Protected Material with the correct confidentiality designation within seven (7) days
15 upon its notification to the Receiving Parties. Upon receiving the Protected Material with the
16 correct confidentiality designation, the Receiving Parties shall return or securely destroy, at the
17 Producing Party's option, all Discovery Material that was not designated properly and promptly
18 notify the Producing Party of the return and/or destruction within two (2) business days of receipt
19 of notice.

20 (b) A Receiving Party shall not be in breach of this Order for any use of such
21 Discovery Material before the Receiving Party receives such notice that such Discovery Material is
22 protected under one of the categories of this Order, unless an objectively reasonable person would
23 have realized that the Discovery Material should have been appropriately designated with a
24 confidentiality designation under this Order. Once a Receiving Party has received notification of
25 the correct confidentiality designation for the Protected Material with the correct confidentiality
26 designation, the Receiving Party shall treat such Discovery Material at the appropriately designated
27 level pursuant to the terms of this Order.

1 **16. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER**

2 (a) In the event of a disclosure of any Discovery Material pursuant to this Order
3 to any person or persons not authorized to receive such disclosure under this Protective Order, the
4 Party responsible for having made such disclosure, and each Party with knowledge thereof, shall
5 immediately notify counsel for the Producing Party whose Discovery Material has been disclosed
6 and provide to such counsel all known relevant information concerning the nature and
7 circumstances of the disclosure. The responsible disclosing Party shall also promptly take all
8 reasonable measures to retrieve the improperly disclosed Discovery Material and to ensure that no
9 further or greater unauthorized disclosure and/or use thereof is made

10 (b) Unauthorized or inadvertent disclosure does not change the status of
11 Discovery Material or waive the right to hold the disclosed document or information as Protected.

12 **17. FINAL DISPOSITION**

13 (a) Not later than ninety (90) days after the Final Disposition of this case, each
14 Party shall return all Discovery Material of a Producing Party to the respective outside counsel of
15 the Producing Party or destroy such Material, at the option of the Producing Party. For purposes of
16 this Order, “Final Disposition” occurs after an order, mandate, or dismissal finally terminating the
17 above-captioned action with prejudice, including all appeals.

18 (b) All Parties that have received any such Discovery Material shall certify in
19 writing that all such materials have been returned to the respective outside counsel of the Producing
20 Party or destroyed. Notwithstanding the provisions for return of Discovery Material, outside
21 counsel may retain one set of pleadings, motion or other court papers, trial, deposition, and hearing
22 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
23 work product, and consultant and expert work product (but not document productions) for archival
24 purposes. Any such archival copies remain subject to this Order.

25 **18. MISCELLANEOUS**

26 (a) Right to Further Relief. Nothing in this Order abridges the right of any
27 person to seek its modification by the Court in the future. By stipulating to this Order, the Parties
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1 do not waive the right to argue that certain material may require additional or different
2 confidentiality protections than those set forth herein.

3 (b) Termination of Matter and Retention of Jurisdiction. The Parties agree that
4 the terms of this Protective Order shall survive and remain in effect after the Final Determination of
5 the above-captioned matter. The Court shall retain jurisdiction after Final Determination of this
6 matter to hear and resolve any disputes arising out of this Protective Order.

7 (c) Successors. This Order shall be binding upon the Parties hereto, their
8 attorneys, and their successors, executors, personal representatives, administrators, heirs, legal
9 representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and
10 experts, and any persons or organizations over which they have direct control.

11 (d) Right to Assert Other Objections. By stipulating to the entry of this
12 Protective Order, no Party waives any right it otherwise would have to object to disclosing or
13 producing any information or item. Similarly, no Party waives any right to object on any ground to
14 use in evidence of any of the material covered by this Protective Order. This Order shall not
15 constitute a waiver of the right of any Party to claim in this action or otherwise that any Discovery
16 Material, or any portion thereof, is privileged or otherwise non-discoverable, or is not admissible in
17 evidence in this action or any other proceeding.

18 (e) Burdens of Proof. Notwithstanding anything to the contrary above, nothing
19 in this Protective Order shall be construed to change the burdens of proof or legal standards
20 applicable in disputes regarding whether particular Discovery Material is confidential, which level
21 of confidentiality is appropriate, whether disclosure should be restricted, and if so, what restrictions
22 should apply.

23 (f) Modification by Court. This Order is subject to further court order based
24 upon public policy or other considerations, and the Court may modify this Order *sua sponte* in the
25 interests of justice. The United States District Court for District of Nevada is responsible for the
26 interpretation and enforcement of this Order. All disputes concerning Protected Material, however
27 designated, produced under the protection of this Order shall be resolved by the United States
28 District Court for the District of Nevada.

(g) Discovery Rules Remain Unchanged. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for the United States District Court for District of Nevada, or the Court's own orders. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules for the United States District Court for District of Nevada, or the Court's own orders.

Respectfully submitted,

Dated: September ___, 2018

HUESTON HENNIGAN LLP

Allison L. Libeu
Attorneys for Plaintiff Tesla, Inc.

Dated: September ___, 2018

TIFFANY & BOSCO, P.A.

Robert D. Mitchell
Attorneys for Defendant Martin Tripp

ORDER

IT IS SO ORDERED

UNITED STATES MAGISTRATE JUDGE

DATED: _____

EXHIBIT A

I, _____, acknowledge and declare that I have received a copy of the Protective Order (“Order”) in Tesla, Inc. v. Martin Tripp, United States District Court, District of Nevada, Case No. 3:18-cv-00296-LRH-VPC. Having read and understood the terms of the Order, I agree to be bound by the terms of the Order and consent to the jurisdiction of said Court for the purpose of any proceeding to enforce the terms of the Order.

Name of individual: _____

Present occupation/job description: _____

Name of Company or Firm: _____

Address: _____

Dated: _____

[Signature]